

CHAPTER 4

Revenue and Finance

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ARTICLE 1

General and Special Funds

Sec. 4-1-10. General Fund created.

There is hereby created a fund, to be known as the General Fund, which shall consist of the following:

(1) All cash balances of the Town not specifically belonging to any existing special fund of the Town.

(2) All fixed assets of the Town (to be separately designated in an account known as the General Fund Fixed Assets) not specifically belonging to any existing special fund of the Town. (Ord. 330 §1, 2007)

Sec. 4-1-20. Capital Equipment Replacement Fund created.

There is hereby created a special fund, to be known as the Capital Equipment Replacement Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 330 §1, 2007)

Sec. 4-1-30. Conservation Trust Fund created.

There is hereby created a special fund, to be known as the Conservation Trust Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 330 §1, 2007)

Sec. 4-1-40. Debt Service Fund.

There is hereby created a special fund, to be known as the Debt Service Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 330 §1, 2007)

Sec. 4-1-50. Fraser River Enhancement Project Fund.

There is hereby created a special fund, to be known as the Fraser River Enhancement Project Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 330 §1, 2007)

Sec. 4-1-60. Peterson Trust Fund.

There is hereby created a special fund, to be known as the Peterson Trust Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 330 §1, 2007)

Sec. 4-1-70. Water Fund created.

There is hereby created a special fund, to be known as the Water Fund, and the funds therein shall be used only for the purposes allowed by law. (Ord. 330 §1, 2007)

ARTICLE 2

Sales Tax

Sec. 4-2-10. Purpose.

The purpose of this Article is to impose a sales tax upon the sale at retail of tangible personal property and the furnishing of certain services in the Town, pursuant to the authority granted to incorporated towns of the State by Article 2 of Title 29, C.R.S. This Article shall be so construed and interpreted as to effectuate the general purpose of making it uniform with the sales tax of the State, levied by Article 26 of Title 39, C.R.S. (Prior code 5-1-1)

Sec. 4-2-20. Definitions.

For the purpose of this Article, the definition of words herein contained shall be as said words are defined in Section 39-26-102, C.R.S., and said definitions are incorporated herein by this reference. (Prior code 5-1-2)

Sec. 4-2-30. Licenses.

(a) It shall be unlawful for any person to engage in the business of selling tangible personal property at retail, or to furnish certain services as herein specified, without first obtaining the appropriate license therefor, which license shall be granted and issued by the Town Clerk, and shall be in force and effect until December 31 of the year in which it is issued, unless sooner revoked. Such license shall be granted or renewed only upon application stating the name and address of the person desiring such license, the name of such business and location and such other facts as the Town Clerk may require.

(b) It shall be the duty of each such licensee on or before January 1st of each year during which this Article remains in effect to obtain a renewal thereof if the licensee remains in retail business or liable to account for the tax herein provided, but nothing herein contained shall be construed to empower the Town Clerk to refuse such renewal except revocation for cause of licensee's prior license.

(c) For each license issued, a fee in such amount as is established from time to time by ordinance or resolution adopted by the Board of Trustees, shall be paid, which fee shall accompany the application together with an additional filing fee. A further fee shall be paid for each year or fraction thereof for which said license is renewed, together with an additional filing fee; provided that only one-half (½) of said fee shall be charged on licenses issued after July 1 of any year. All such fees are set forth in Appendix A to this Code

(d) In case business is transacted at two (2) or more separate places by one (1) person, a separate license for each place of business shall be required.

(e) Each license shall be numbered and shall show the name, residence and place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.

(f) Any license may be revoked for cause as provided in Section 39-26-103, C.R.S., which provision is incorporated herein by this reference.

(g) No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Article.

(h) Any person engaged in the business of selling tangible personal property at retail, or the furnishing of certain services as herein specified, without having first secured a license therefor as provided in this Section, shall be guilty of a violation of this Section. (Prior code 5-1-3)

Sec. 4-2-40. Property and services taxed.

(a) There is hereby levied and there shall be collected and paid a sales tax in the amount as provided in this Section, upon the sale at retail of tangible personal property and the furnishing of certain services, as provided in Article 26 of Title 39, C.R.S., which provisions are incorporated herein by this reference.

(b) There is hereby levied and there shall be collected and paid a sales tax in the amount as provided in this Section, upon the sale at retail of tangible personal property, on sales of food and purchases of machinery or machine tools, and the furnishing of services on sale and purchases of electricity, coal, gas, fuel oil, coke and telecommunications for domestic and commercial consumption.

(c) The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

(d) The gross receipts from sales subject to the tax imposed herein shall include delivery charges when such charges are subject to the state sales and use tax imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made. (Prior code 5-1-4)

Sec. 4-2-50. Exemptions.

(a) There shall be exempt from taxation under the provisions of this Article, all of the tangible personal property and services which are exempt under the provisions of Article 26, Title 39, C.R.S., which exemptions are incorporated herein by this reference, except the exemption allowed by Section 39-26-710(1), C.R.S., for purchase of machinery or machine tools, the exemption of sales and purchases of electricity, coal, gas, fuel oil and coke as provided in Section 39-26-716(1)(a)II, C.R.S., and the exemption for sale of food specified in Section 39-26-707(1)(e), C.R.S.

(b) All sales of tangible personal property on which a specific ownership tax has been paid or is payable shall be exempt from sales tax when such sales meet both of the following conditions:

(1) The purchaser is a nonresident of, or has its principal place of business outside of, the Town; and

(2) Such tangible personal property is registered or required to be registered outside the limits of the Town under the laws of the State. (Prior code 5-1-5)

Sec. 4-2-60. Amount of tax and schedule.

(a) There is hereby imposed upon all sales of tangible personal property and the furnishing of certain services, as specified in Section 4-2-40 of this Article, a four-percent sales tax upon the sale at retail of tangible personal property and the furnishing of certain services as provided in "The Emergency Retail Sales Tax Act of 1935" set forth in Article 26 of Title 39, C.R.S., which provisions are incorporated herein by this reference.

(b) The imposition of the tax on the sale at retail of tangible personal property and the furnishing of certain services subject to this tax shall be in accordance with schedules set forth in the Rules and Regulations of the Department of Revenue of the State and in accordance with the regulations enacted by separate resolution of the Board of Trustees.

(c) In the event that the seven-percent limitation provided in Section 29-2-108, C.R.S., is to be exceeded in the Town by a proposed county sales or use tax, such limitation shall be exceeded by a stated rate in the Town. (Prior code 5-1-6; Ord. 330 §1, 2007)

Sec. 4-2-70. General provisions.

(a) For the purposes of this Article, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his or her agent to a destination outside the limits of the Town or to a common carrier for delivery to a destination outside the limits of the Town.

(b) In the event a retailer has no permanent place of business in the Town, or has more than one (1) place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax imposed by this Article shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the State Department of Revenue.

(c) The Town's sales tax shall not apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule municipality equal to or in excess of four percent (4%). A credit shall be granted against the Town sales tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule municipality. The amount of this credit shall not exceed four percent (4%).

(d) The Town's sales tax shall not apply to the sale of construction and building materials, as the term is used in Section 29-2-109, C.R.S., if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the Town evidencing that a local use tax (in the other municipality) has been paid or is required to be paid. (Prior code 5-1-7)

Sec. 4-2-80. Collection, administration and enforcement.

(a) The collection, administration and enforcement of the sales tax imposed by this Article shall be performed by the State Director of Revenue in the same manner as the collection, administration and enforcement of the state sales tax. Accordingly, the provisions of Articles 26 and 21 of Title 39,

and Article 2 of Title 29, C.R.S., and all rules and regulations promulgated by the Director of Revenue pertaining to such collection, administration and enforcement, are incorporated herein by this reference.

(b) Vendors are not allowed to take the three and one-third percent ($3\frac{1}{3}\%$) on tax collected for the Town. This shall not affect any vendor's fee allowed by the State on state sales tax collected. (Prior code 5-1-8)

Sec. 4-2-90. Amendments.

The Board of Trustees, by a majority vote, may amend, alter or change this Article, except as to the four-percent rate of tax herein imposed, and such amendment, alteration or change need not be submitted to the electors of the Town for their approval. (Prior code 5-1-10)

Sec. 4-2-100. Penalty.

Any person convicted of violating any provisions of this Article shall be punished as set forth in Section 1-4-10 of this Code. (Prior code 5-1-11; Ord. 330 §1, 2007)

ARTICLE 3

Use Tax

Sec. 4-3-10. General provisions.

(a) Purpose. The purpose of this Article is to raise revenue to pay for and operate municipal services, and provide a complementary tax to the Town sales tax. The taxes imposed in this Article are a use tax on building and construction materials which are purchased outside the Town for use, storage or consumption within the Town; and a similar use tax imposed on motor vehicles, on which registration is required, purchased outside the Town by Town residents for use, storage or consumption within the Town.

(b) Definitions. For the purpose of this Article, the definition of words herein contained shall be as said words are defined in Sections 39-26-102 and 39-26-201, C.R.S., and said definitions are incorporated herein by this reference.

(c) General fund revenues. All funds received pursuant to this Article shall be deposited into the Town's General Fund.

(d) Application and exemptions. In no event shall the use tax imposed by this Article extend or apply to the following:

(1) The storage, use or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the Town.

(2) The storage, use or consumption of any tangible personal property purchased for resale in the Town either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business.

(3) The storage, use or consumption of any tangible personal property brought into the Town by a nonresident thereof for his or her own storage, use or consumption while temporarily within the Town; however, this exemption does not apply to the storage, use or consumption of tangible personal property brought into the State by a nonresident to be used in the conduct of a business in the State.

(4) The storage, use or consumption of tangible personal property by the United States government or the State, in its institutions or political subdivisions, in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions; however, this exemption does not apply to the storage, use or consumption of tangible personal property brought into the State by a nonresident to be used in the conduct of a business in the State.

(5) The storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label or the furnished shipping case thereof.

(6) The storage, use or consumption of any article of tangible personal property, the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule municipality equal to or in excess of four percent (4%). A credit shall be granted against the Town's use tax with respect to a person's storage, use or consumption in the Town of tangible personal property purchased by him or her in a previous statutory or home rule municipality. The amount of the credit shall be equal to the tax paid by him or her, by reason of the imposition of a sales or use tax of the previous statutory or home rule municipality on his or her purchase or use of the property. The amount of the credit shall not exceed four percent (4%).

(7) The storage, use or consumption of tangible personal property and household effects acquired outside of the Town and brought into it by a nonresident acquiring residency.

(8) The storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the Town and he or she purchased the vehicle outside of the Town for use outside the Town and actually used it for a substantial and primary purpose for which it was acquired, and he or she registered, titled and licensed said motor vehicle outside of the Town.

(9) The storage, use or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of this use tax.

(10) The use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid let or entered into at any time prior to the effective date of this use tax. (Prior code 5-2-1; Ord. 330 §1, 2007)

Sec. 4-3-20. Building and construction use tax.

(a) Imposition; amount. There is imposed on the privilege of using or consuming any construction and building materials of every kind and form purchased outside this Town for use or

consumption within this Town a use tax of four percent (4%) of the retail purchase price of said building and construction materials.

(b) Determination and payment of building and construction use tax. The use tax imposed by Subsection (a) above shall be paid by estimate at the time the building or other permit required for the building or construction project is issued. The building permit fees are set forth in Appendix B to this Code. For purposes of this Article, fifty percent (50%) of the total valuation of any building or construction project shall be deemed to be the retail value of the construction and building materials used or consumed in such project, upon which the use tax is imposed. The total valuation of any construction or building project shall be determined by using construction costs as identified in Appendix C to this Code, entitled Construction Value. If the valuation for a particular type of building or construction project is not addressed in Appendix C, Town staff shall determine the applicable valuation for the project from information sources that are deemed to reflect the actual costs for local construction. No building or construction permit shall be issued, and no building or construction project shall be commenced until the use tax for the project has been paid as provided in this Section. A receipt for payment of such use tax shall be issued to the taxpayer, which shall be presented upon purchase of building and construction materials so that the taxpayer will not be charged additional sales taxes on such materials.

(c) Refund. Upon issuance of a certificate of occupancy for a building or construction project for which the use tax has been paid as provided in this Section, the taxpayer may apply to the Town for a refund of any overpayment of the estimated use tax by providing documentation of the actual costs of all construction or building materials used or consumed in the project upon which the tax was paid and any credits or exemptions to which the taxpayer is entitled as set forth in this Article. Any application for a refund under this Subsection must be filed with the Town within thirty (30) days after a certificate of occupancy is issued for the project or, if no certificate of occupancy is required, within thirty (30) days after completion of the project. A taxpayer's failure to file for a refund within this time limit shall operate as an absolute forfeiture of the right to any refund of the estimated use tax paid. If a refund application is filed, all of the taxpayer's records relating to the construction project are subject to audit by the Town to determine the actual costs of materials used or consumed on the project and the proper amount of the use tax payable for the project. If the audit reveals that a refund is due, such refund shall be paid to the taxpayer, without interest, within thirty (30) days after completion of the audit. If the audit reveals a tax deficiency, the balance due shall be paid to the Town by the taxpayer within thirty (30) days following the issuance of a notice of deficiency. (Prior code 5-2-2; Ord. 300 Part 1, 2004; Ord. 301 Part 4.1, 2004; Ord. 316 Part 4.1, 2005; Ord. 320 Part 4.1, 2006; Ord. 324 Part 4.1, 2007; Ord. 325 Part 1, 2007)

Sec. 4-3-30. Motor vehicle use tax.

(a) Imposition; amount. There is imposed on the privilege of storing, using or consuming any motor vehicle on which registration is required, purchased outside of the Town for use, storage or consumption within the Town, a use tax of four percent (4%) of the retail purchase price of said motor vehicle.

(b) Payment prerequisite to registration and issuance of title. No registration shall be made of any motor vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the State Department of Revenue or its authorized agents, until any tax due upon the use, storage or consumption thereof pursuant to this Article has been paid.

(c) Collection. The use tax imposed by this Section shall be collected by the authorized agent of the State Department of Revenue in the county in which the purchaser resides.

(d) Proceeds; payment by County to Town; agreement. The proceeds of the use tax imposed by this Section shall be paid to the Town periodically in accordance with an agreement entered by and between the Town and the authorized county agent of the State Department of Revenue. (Prior code 5-2-3)

Sec. 4-3-40. Administration and enforcement agreements authorized.

The Mayor and Town Clerk are empowered to enter into and execute on behalf of the Town any agreements necessary for the administration and enforcement of this Article in accordance with the provisions of Title 29-2-106(3)(b), C.R.S. (Prior code 5-2-3)

Sec. 4-3-50. Monthly return; collection.

(a) Every person subject to the provisions of Section 4-3-20 or 4-3-30 of this Article who, in the conduct of a business, uses, stores or consumes any construction or building materials, or motor vehicles on which registration is required, purchased outside the Town for use, storage or consumption within the Town, and who has not paid the use tax imposed by this Article, shall before the twentieth day of each month make a return and remit the tax herein imposed to the Town Clerk or his or her authorized agent for the preceding calendar month on forms prescribed by him or her, showing in detail the subject tangible personal property stored, used or consumed by said person within the Town during the preceding calendar month and on which the said use tax has not been paid.

(b) Every person subject to the provisions of Section 4-3-20 or 4-3-30 of this Article, but not in the conduct of a business, uses, stores or consumes any construction or building materials, or motor vehicles on which registration is required, purchased outside the Town for use, storage or consumption within the Town, and who has not paid the use tax imposed by this Article to a retailer or other appropriate legal entity, shall make a return and remit the tax annually to the Town Clerk or his or her authorized agent, at the time state income tax returns are due for such year. (Prior code 5-2-3)

Sec. 4-3-60. Effective date; amendments; alternative dispute resolution procedure.

(a) Effective date; amendments. Upon adoption of the ordinance codified herein by the Board of Trustees, it shall become effective June 1, 1982, and the tax imposed shall be collected on all taxable sales from and after that date. The Board of Trustees, by a majority vote, may amend, alter or change this Article, except as to the four-percent rate of tax herein imposed, and such amendment, alteration or change need not be submitted to the electors of the Town for their approval.

(b) Alternative dispute resolution procedure; deficiency notice or claim for refund. The taxpayer may elect a state hearing on the Town Clerk's or Mayor's final decision on a deficiency notice or claim for refund pursuant to the procedure set forth in this Section.

(1) As used in this Subsection, *state hearing* means a hearing before the executive director of the Department of Revenue or delegate thereof as provided in Section 29-2-106.1(3), C.R.S.

(2) When the Town asserts that use taxes are due in an amount greater than the amount paid by a taxpayer, the Town shall mail a deficiency notice to the taxpayer by certified mail. The deficiency notice shall contain notification, in clear and conspicuous type, that the taxpayer has the right to elect a state hearing on the deficiency pursuant to Section 29-2-106.1(3), C.R.S. The taxpayer shall also have the right to elect a state hearing on the Town's denial of such taxpayer's claim for a refund of use tax paid.

(3) The taxpayer shall request the state hearing within thirty (30) days after the taxpayer's exhaustion of local remedies. The taxpayer shall have no right to such hearing if he or she has not exhausted local remedies or if he or she fails to request such hearing within the time period provided for in this Paragraph. For purposes of this Paragraph, *exhaustion of local remedies* means:

a. The taxpayer has timely requested in writing a hearing before the Town, and the Town has held such hearing and issued a final decision thereon. Such hearing shall be informal and no transcript, rules of evidence or filing of briefs shall be required; but the taxpayer may elect to submit a brief, in which case the Town may submit a brief. The Town shall hold such hearing and issue the final decision thereon within ninety (90) days after the Town's receipt of the taxpayer's written request therefor, except the Town may extend such period if the delay in holding the hearing or issuing the decision thereon was occasioned by the taxpayer, but, in any such event, the Town shall hold such hearing and issue the decision thereon within one hundred eighty (180) days of the taxpayer's request in writing therefor; or

b. The taxpayer has timely requested in writing a hearing before the Town, and the Town has failed to hold such hearing or has failed to issue a final decision thereon within the time periods prescribed in Subparagraph a. above.

(4) If a taxpayer has exhausted his or her local remedies as provided in Paragraph (3) above, the taxpayer may request a state hearing on such deficiency notice or claim for refund, and such request shall be made and such hearing shall be conducted in the same manner as set forth in Section 29-2-106.1(3) through (7), C.R.S.

(5) If the deficiency notice or claim for refund involves only the Town, in lieu of requesting a state hearing, the taxpayer may appeal such deficiency notice or denial of a claim for refund to the District Court of the County as provided in Section 29-2-106.1(8), C.R.S., provided that the taxpayer complies with the procedures set forth in Paragraph (3) above.

(6) If the Town reasonably finds that the collection of use tax will be jeopardized by delay, the Town may utilize the procedures set forth in Section 39-21-111, C.R.S. (Prior code 5-2-4)

Sec. 4-3-70. Violations; penalties.

Any person who shall violate any of the provisions of this Article shall be guilty of a violation and, upon conviction, shall be punished as set forth in Section 1-4-10 of this Code. (Prior code 5-2-5; Ord. 300 Part 2, 2004; Ord. 330 §1, 2007)

ARTICLE 4

Emergency Telephone Service

Sec. 4-4-10. Authorization.

The Mayor is authorized to sign the intergovernmental agreement attached to the ordinance codified herein creating the Grand County Emergency Telephone Service Authority in order to establish and maintain an emergency telephone service system in the County. (Ord. 180 §1, 1989; Ord. 330 §1, 2007)

Sec. 4-4-20. Charge imposed.

There is hereby imposed, pursuant to Section 29-11-101 et seq., C.R.S., upon all telephone access facilities within the Town, an emergency telephone charge in an amount not to exceed two percent (2%) of the tariff rates as approved by the Public Utilities Commission or fifty cents (\$.50) per month, whichever is less. Upon recommendation of the Grand County Emergency Telephone Service Authority, the Board of Trustees may, by resolution, raise or lower the emergency telephone charge, but in no event shall such charge exceed the amount of two percent (2%) of the tariff as approved by the Public Utilities Commission. (Ord. 180 §2, 1989)

Sec. 4-4-30. Collection.

Telephone service suppliers providing telephone service in the Town are hereby authorized to collect the emergency telephone charge imposed by this resolution Article in accordance with Section 29-11-101 et seq., C.R.S. (Ord. 180 §3, 1989)